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## Fox, "Phantom" go to court Wednesday

By Kristi E. Swartz

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The man known as the "Phantom of the Fox" again will meet with his landlords Wednesday.



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Joe Patten, left, and supporters arrive for court proceedings. Trustees deliberated on whether he can continue to live there.

This time, it will be in a Fulton County Superior courtroom.

Joe Patten, who has lived in an apartment tucked away in Atlanta's historic Fox Theatre for 31 years, is suing to remain in his home.

The case could be boiled down to a basic tenant-landlord issue, or showcase the struggle that people face while trying to figure out whether an aging family member can live independently.

But Patten is associated with the Fox Theatre's history, and whether he can remain living in his apartment there has turned into a public debate.

Supporters of Patten have created a [Website](#) and [Facebook page](#) and have planned a protest outside the courthouse Wednesday.

Others have posted comments – some heated to the point that they have been removed – to the Fox's [Facebook page](#) as well.

Fox officials said in September they never expected the matter to turn into such a firestorm.

Patten signed a lease with the theatre's board, Atlanta Landmarks, in 1979 that allowed him to live in a renovated office space in the theater rent-free for the rest of his life.

The board agreed to terminate that lease in August, writing a new one that said Patten, 83, could live there as long as he is "able," or, whether he needs round-the-clock care.

The clock is ticking. While Fox Theatre officials said they would be open to negotiating the terms of the new lease, Patten has not signed it. This means he has 90 days to live in his apartment after the Fox gave him formal notice to vacate it.

That happened on Sept. 1. Without an injunction, he must leave by Dec. 1.

Patten's attorneys filed documents with the court Tuesday requesting that he be able to live in the apartment until the legal fight is over. The documents, obtained by the AJC, state that Atlanta

Landmarks will “suffer no inconvenience” if Patten remain in the apartment during this time.

Patten, once the theater's technical director, reconditioned the Fox's pipe organ in the 1960s. He helped form Atlanta Landmarks in 1974 to prevent the ornate 1920s movie palace's demolition and was credited with saving the Fox again after a fire broke out in 1996 and he led firefighters to the flames.

Patten also has a laundry list of medications to take and must climb up a narrow staircase to get from the street to his home.

A recent stay at Emory University Hospital Midtown and Budd Terrace Nursing Home prompted Atlanta Landmarks to discuss a new lease.

Prior to that time, the lease had been altered in 2008, allowing it to end 120 days after Patten's death. Changes also were made as to whether Patten could have guests in his apartment.

It is not clear what prompted those changes, and Fox officials would not comment “out of respect” for Patten.

Fox officials say they've had “ongoing conversations” with Patten about his health. At a September news conference, Fox Theatre general manager Allan Vella said Patten's friends and family have asked Fox staff members to check on him more frequently in the past two years.

While recovering at Budd Terrace, Patten received a letter Aug. 11 from Woody White, president of Atlanta Landmarks, the nonprofit that owns the Fox, asking him to seek out an “assisted living residence.”

The letter, which Vella later said was a “misstep” sparked a debate over whether Patten could live on his own – and turned the private matter into a public one.

In the lawsuit, Patten accuses Atlanta Landmarks of “willful, intentional and deliberate acts of housing discrimination” because of a change made to his lifetime lease.

It also asks Atlanta Landmarks to pay for damages -- including punitive damages -- as well as attorney's fees and additional costs associated with litigation. His attorney, Emmet Bondurant, is asking for a jury trial.